

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

Application Approval

Water Division 1-C

This matter comes before the Director of the Department of Natural Resources (Department) pursuant to Neb. Rev. Stat. § 46-233 (Reissue 2004) which requires any person intending to appropriate any of the public waters of the State of Nebraska to make an application to the Department for a permit to make such appropriation; Neb. Rev. Stat. § 46-241 (Cum. Supp. 2006) which generally requires every person intending to construct and operate a storage reservoir to make an application to the Department; and Neb. Rev. Stat. § 46-1652 (Supp. 2005) which generally requires any owner intending to construct or enlarge a dam to apply for and obtain written application approval of plans and specifications of a dam.

This is to certify that application A-18397 for a permit to impound water, application for approval of plans, required engineering drawings and plan number P-16763, and specifications have been examined. The Department consulted with the Game and Parks Commission as required by Neb. Rev. Stat. § 37-807 (Reissue 2004), and it is determined that this project will not harm threatened and endangered species or their habitat.

The applications, required engineering drawings, plans, specifications are hereby APPROVED subject to the following limitations, conditions and notice:

1. The source of water is Little Sandy Creek.
2. The priority date is May 11, 2006.
3. The amount of the appropriation shall not exceed 1,214.12 acre-feet per annum to be stored in Dam site 40 Little Sandy Creek Watershed. Dam site 40 Little Sandy Creek Watershed will be located in the SE¼ of Section 2, Township 4 North, Range 1 West of the 6th P.M. in Thayer County.
4. Construction must begin by February 28, 2007, and must continue vigorously, diligently and uninterruptedly to completion unless temporarily interrupted by some unavoidable and natural cause.
5. Construction of the project must be completed by October 1, 2008.
6. The installation of a measuring device may be required.
7. The applicant shall have a preferred right until April 1, 2009, to file an application for a permit to appropriate the water stored for some useful purpose as provided by Neb. Rev. Stat. § 46-242 (Reissue 2004).
8. Impoundment of water under A-18397 may be denied for the benefit of downstream appropriators requiring water for direct irrigation and for senior rights.
9. The structure is to be constructed, operated and maintained in accordance with Nebraska Statutes, specifically Neb. Rev. Stat. § 46-241 (Supp. 2005) and the Safety of Dams and Reservoirs Act, Neb. Rev. Stat. §§ 46-1601 to 46-1670 (Supp. 2005).
10. Written notice shall be provided to the Department at least ten days before start of construction.

11. Upon completion of a new or reconstructed dam and reservoir or of the enlargement of a dam and reservoir, the owner shall file with the Department the enclosed Construction Certification for Dams form as required by Neb. Rev. Stat. § 46-1657. Following receipt of such Construction Certification for Dams form, the Department shall issue an approval to operate upon a finding that the dam is safe to impound within the limitations prescribed in this approval. No impoundment by the structure shall occur prior to issuance of the approval to operate as required by § 46-1657.
12. Owners of reservoirs and dams are liable for all damages arising from leakage, overflow, or structural failure.
13. Failure to comply with the provisions of this Approval may cause cancellation of this Approval. If unable to meet the conditions of approval, a petition for an extension of time may be filed with the Department. An extension may be granted upon a showing of reasonable cause. Petitions must be filed prior to the expiration dates stated in the Approval and accompanied by a \$10 filing fee.
14. In the event that the Little Blue River Basin is determined to be fully appropriated by the Department under the provisions of Neb. Rev. Stat. § 46-713 (Cum. Supp. 2006) and no water has been stored in this facility by the date the determination is made, this storage appropriation permit may be cancelled or, if water has been stored, the amount of water which may be stored in this facility may be limited to the maximum amount that has been stored historically. The applicant may seek a variance from the Department under § 46-714(3)(n) (Cum. Supp. 2006) or may apply for an extension under Neb. Rev. Stat. § 46-238(2) (Reissue 2004) or an exception under Neb. Rev. Stat. § 46-714(3)(g) (Cum. Supp. 2006).

DEPARTMENT OF NATURAL RESOURCES

September 21, 2006

Ann Bleed, Acting Director

A copy of this approval, a copy of application number A-18397, Dam Construction Certification form, and a copy of approved engineering drawings and plan number P-16763 were mailed on September _____, 2006, to Little Blue Natural Resources District, PO Box 100, Davenport, Nebraska 68335. Copies of this Approval, Engineering Review Report and approved drawings and plan number P-16763 were provided to the Department's field office, Lincoln, Nebraska.